

Response

Claims 1, 3, 5-18, 24-29, 31, and 47-58 are pending.

New Claims 48-58 have been added. No new matter has been added with the addition of the new claims, which are supported in the specification and the claims as originally filed. Additional support for Claims 55-58 is in originally filed Claims 19-23.

Rejection of Claims under 35 USC §§ 102(e)/103 (Brines)

The Examiner maintains the rejection of Claims 1, 3, 5-18, 24-29, 31, and 47 under Section 102(e) as anticipated by Brines (USP 6,531,121). The Examiner also maintains the rejection of Claims 3-5, 17, 24-26 and 28 under Section 102(e) as anticipated by, or under Section 103(a) as obvious over Brines. These rejections are respectfully traversed.

Without further addressing the Brines disclosure, Applicant hereby submits the enclosed **Declaration under Section 131(b)** (executed by Dr. John E. Baker) swearing behind Brines. Applicant conceived of and diligently pursued the presently claimed invention prior to the Brines filing date of December 29, 2000.

Also enclosed are the following documents in support of the acceptance of the Section 131 Declaration being signed solely by Dr. Baker:

- a) **Petition under 37 CFR § 1.47** by Poietis LLC, the owner of 100% interest in the above-identified application, the Petition being executed by Dr. John E. Baker on behalf of himself (as inventor) and in his capacity as sole member and owner of Poietis LLC. As stated in the Petition, the co-inventor, Dr. Yang Shi (aka Yang "Scarlet" Shi), refused to sign the Section 131 Declaration.
- b) **Statement under 37 CFR § 3.73(b)**, executed by Dr. John E. Baker, as sole member and owner of Poietis LLC, attesting to the assignment by Dr. Shi of the entire right, title and interest in the above-identified application to Poietis LLC.

Acceptance of the Section 131 Declaration is hereby requested.

Accordingly, withdrawal of the rejection of the claims based on Brines is respectfully requested.

Claim Fees. Please charge the required fees for any excess claims to Account No. 23-2053.

Extension of Term. The proceedings herein are for a patent application and the provisions of 37 CFR § 1.136 apply. Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition for extension of time. If any extension and/or fee are required, please charge Account No. 23-2053.

It is submitted that the present claims are in condition for allowance, and notification to that effect is respectfully requested.

Respectfully submitted,



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